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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,287	07/08/2003	Tadashi Mori	VX032538	7452

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EXAMINER

ROSENBERG, LAURA B

ART UNIT PAPER NUMBER

3616

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p><b>Office Action Summary</b></p>	<b>Application No.</b> 10/614,287	<b>Applicant(s)</b> MORI ET AL.	
	<b>Examiner</b> Laura B Rosenberg	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date: ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7-8-03</u> .  | 6) <input type="checkbox"/> Other: ____.                                    |

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### **DETAILED ACTION**

1. The preliminary amendment filed on 08 July 2003, in which claims 6 and 7 were amended and claims 10-17 were added, has been entered.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 10 July 2002. It is noted, however, that applicant has not filed a certified copy of the 2002-201392 application as required by 35 U.S.C. 119(b).

### ***Claim Objections***

3. Claims 2-5, and 9 are objected to because of the following informalities:
  - "the support pillar of an outer middle portion" should be a suport pillar of an outer middle portion (claim 2, line 3);
  - "the ceiling portion" should be --a ceiling portion-- (claim 2, line 3; claim 3, line 5; claim 4, line 3; claim 9, line 2);
  - "the support pillars in the rear portion" should be --support pillars in the rear portion-- (claim 2, line 4);
  - "both of the support pillars" should be --both support pillars-- (claim 3, line 3);
  - "the rear support pillar" should be --a rear support pillar-- (claim 3, line 4);
  - "the outer middle support pillar" should be --an outer middle support pillar-- (claim 3, lines 4-5);
  - "the rear surface" should be --a rear surface-- (claim 5, line 2);

"the reinforcing function" should be --a reinforcing function-- (claim 9, lines 2-3).

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "pipe-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim 1 is confusing because the claimed subject matter differs from that provided in the specification and in the drawings. Specifically, the connection member is "arranged in a support pillar" according to claim 1, but the connection member is only attached to a support pillar in the specification and the drawings. Clarification is required.

Regarding claims 6 and 10-13, the examiner cannot ascertain the subject matter being claimed.

Generally speaking, claims 1-17 are written in an extremely unclear manner. It is difficult to determine exactly where the connection member, support pillars, and other features are intended to be located based on the wording in the claims. The applicant

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should reword the claims in order to more clearly set forth the subject matter being claimed.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 4, 6-9, 12, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakyo (6,769,732). As best understood, Sakyo discloses:

- Driver's cab (#10) for a work vehicle (best seen in figure 1) structured by a pipe-like member (including frame members and connection member)
- Connection member (#30) for dispersing stress and attached to a support pillar (including #11a, 12a) in an opposite side to a frame to which an external force is applied (as can be seen in figure 10)
- Connection member is arranged between right and left side surface portions (for example, horizontal and longitudinally extending surface portions of frame structures #11, 12) in a ceiling portion (best seen in figure 4)

- Mounting bracket (#32, 132) formed in an approximately L-shape (best seen in figure 11)
- Connection member is a collared pipe-shaped member (best seen in figures 3-9, 11-15) and is provided with a bracket portion (including #32, 132, 232) attached to a frame member (best seen in figures 8, 11, 12, 15)
- Connection member "is provided not only in the specific positions but also in required positions in a combination manner"

The method forming is not germane to the issue of patentability. Thus, this limitation has not been given patentable weight.

8. Claims 1, 3, 5-8, 11, 13, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hausmann (4,135,756). As best understood, Hausmann discloses:

- Driver's cab (including structure #S) for a work vehicle (#T) structured by a pipe-like member (including frame members and connection members)
- Connection member (#10, 14-16) for dispersing stress is arranged in a support pillar (#2, 3) in an opposite side to a frame to which an external force is applied (column 2, lines 8-10)
- Connection member is arranged between a member (#8) connecting both support pillars (including #2, 3) and a rear surface upper transverse member (#6), and in a rear support pillar (#2, 3)
- Connection member arranged in a lower side of a rear surface portion (including #2, 3; best seen in figure 2)

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- Mounting bracket (#12) formed in an approximately L-shape (best seen in figure 2)
- Connection member "is provided not only in the specific positions but also in required positions in a combination manner"

9. Claims 1, 2, 4-7, 9, 10, 12- 14, 16, and 17 rejected under 35 U.S.C. 102(b) as being anticipated by Nelson et al.(5,280,955). As best understood, Nelson et al. disclose:

- Driver's cab (#10) for a work vehicle (not shown) structured by a pipe-like member (including frame members and connection members)
- Connection member (including #24, 26) for dispersing a stress is arranged in a support pillar (including #18, 20, 22, 34) in an opposite side to a frame to which an external force is applied (best seen in figure 3)
- Connection member arranged in front and rear portions (for example, #20, 22, 34) opposing to a support pillar of an outer middle portion (for example, #18) in a ceiling portion, and between support pillars in the rear portion (including #34)
- Connection member arranged between both right and left side surface portions (including #18) in a ceiling portion (best seen in figure 2)
- Connection member arranged in a lower side of a rear surface portion (including #18, 22, 34)
- Mounting bracket (including #52, 54)

- Connection member (including #24) used in a ceiling portion is a collared pipe-shaped member (best seen in figure 2) and is provided with a bracket portion (including #52) that can be attached to a frame member (including #18, 20, 22, 34)
- Connection member "is provided not only in the specific positions but also in required positions in a combination manner"

The method forming is not germane to the issue of patentability. Thus, this limitation has not been given patentable weight.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Duncan, O'Neill et al., Fryk et al., Mondragon Sarmiento et al., Johnson et al., Sorensen et al., and Sakyo et al. ('746) each disclose a driver's cab for a work vehicle structured by a pipe-like member and a connection member that can disperse stress when an external force is applied.

Taul discloses a driver's cab for a work vehicle structured by a pipe-like member and an L-shaped mounting bracket.

Geissler et al. and Kröning et al. each disclose a vehicle frame structured by a pipe-like member and a connection member that can disperse stress when an external force is applied.

Belleau et al. disclose a method of forming a driver's cab for a work vehicle structured by a pipe-like member.




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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

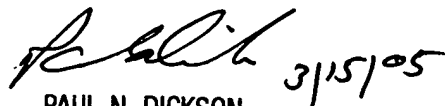
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Beginning April 7, 2005, Laura B Rosenberg can be reached at the new USPTO location at (571) 272-6674, and Paul Dickson can be reached at (571) 272-6669.

  
Laura B Rosenberg  
Patent Examiner  
Art Unit 3616

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